

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RUSSELL D. COPELAND,

FILED ELECTRONICALLY
07 CIV 8044

Plaintiff,

**SECOND AMENDED
ANSWER**

-against-

THE VERTICAL ATMOSPHERE INC., and
TAYFUN HEKIUM,

Defendants

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Defendants, THE VERTICAL ATMOSPHERE INC., and TAYFUN
HEKIUM, by their attorneys, GALVANO & XANTHAKIS, P.C.
answering the amended complaint of the plaintiff,
respectfully states and alleges as follows:

1. Defendants deny knowledge or information sufficient
to form a belief as to the allegations contained in the
paragraph of the complaint numbered "1."

2. Defendants deny each and every allegation contained
in the paragraph of the complaint numbered "2."

JURISDICTION AND VENUE

3. Defendants admit each and every allegation
contained in the paragraphs of the complaint numbered "3."

4. Defendants deny knowledge or information
sufficient to form a belief as to the allegations contained
in the paragraph of the complaint numbered "4."

PARTIES

5. Defendants deny each and every allegation contained in the paragraph of the complaint numbered "5," and "9," and leave all questions of law to court.

6. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in the paragraph of the complaint numbered "6," and "8," and leave all question of law to the Court.

7. Defendants admit each and every allegation contained in the paragraphs of the complaint numbered "7."

STATEMENT OF FACTS

8. Defendants repeat, reiterate and reallege each and every answer contained in the above paragraphs numbered "10," with the same force and effect as if more fully set forth herein.

9. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in the paragraph of the complaint numbered "11," "13," and "14."

10. Defendants admit each and every allegation contained in the paragraphs of the complaint numbered "12," "20."

11. Defendants deny each and every allegation contained in the paragraphs of the complaint numbered "15," "16," "17," "18," "19," "21," "23," and "24."

12. Defendants admit each and every allegation contained in the paragraphs of the complaint numbered "22," only to extent plaintiff was terminated.

FIRST CLAIM FOR RELIEF

13. Defendants repeat, reiterate and reallege each and every answer contained in the above paragraphs numbered "25," with the same force and effect as if more fully set forth herein.

14. Defendants deny each and every allegation contained in the paragraphs of the complaint numbered "26," "27," "28," and "29."

SECOND CLAIM FOR RELIEF (NYCHRL-Race/Color Discrimination)

15. Defendants repeat, reiterate and reallege each and every answer contained in the above paragraphs numbered "30," with the same force and effect as if more fully set forth herein.

16. Defendants deny each and every allegation contained in the paragraphs of the complaint numbered "31," "32," "33," and "34."

THIRD CLAIM FOR RELIEF

17. Defendants repeat, reiterate and reallege each and every answer contained in the above paragraphs numbered "35," with the same force and effect as if more fully set forth herein.

18. Defendants deny each and every allegation contained in the paragraphs of the complaint numbered "36," "37," and "38."

FOURTH CLAIM FOR RELIEF

19. Defendants repeat, reiterate and reallege each and every answer contained in the above paragraphs numbered "39," with the same force and effect as if more fully set forth herein.

20. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs of the complaint numbered "40."

21. Defendants deny each and every allegation contained in the paragraphs of the complaint numbered "41," "42," "43," "44," and "45."

FIFTH CLAIM FOR RELIEF

22. Defendants repeat, reiterate and reallege each and every answer contained in the above paragraphs numbered "46," with the same force and effect as if more fully set forth herein.

23. Defendants deny each and every allegation contained in the paragraphs of the complaint numbered "47," "48," "49," and "50."

SIXTH CLAIM FOR RELIEF (Failure to pay wages-New York Labor Law)

24. Defendants repeat, reiterate and reallege each and every answer contained in the above paragraphs numbered "51," with the same force and effect as if more fully set forth herein.

25. Defendants deny each and every allegation contained in the paragraphs of the complaint numbered "52," "53," "54."

**SEVENTH CLAIM FOR RELIEF (Retaliation under NYSHRL AND
NYCHRL)**

26. Defendants repeat, reiterate and reallege each and every answer contained in the above paragraphs numbered "55," with the same force and effect as if more fully set forth herein.

27. Defendants deny each and every allegation contained in the paragraphs of the complaint numbered "56," "57," "58," "59," "60," and "61."

**EIGHTH CLAIM FOR RELIEF (Violation of New York State Labor
Law § 215 - Retaliatory Termination)**

28. Defendants repeat, reiterate and reallege each and every answer contained in the above paragraphs numbered "62," with the same force and effect as if more fully set forth herein.

29. Defendants deny each and every allegation contained in the paragraphs of the complaint numbered "63," "64," and "65."

DEMAND FOR JURY TRIAL

30. Defendants repeat, reiterate and reallege each and every answer contained in the above paragraphs numbered "67," with the same force and effect as if more fully set forth herein.

31. Defendants admit each and every allegation contained in the paragraphs of the complaint numbered "68."

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

32. This complaint fails in whole or in part to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

33. Plaintiff's claims for damages are barred or reduced by the requirement that he mitigate his alleged damages.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

34. Plaintiff has failed to exhaust his administrative remedies.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

35. Plaintiff's claims are barred by the doctrines of waiver and estoppel.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

36. Plaintiff's claims are barred by the applicable statute of limitations.

PRAYER FOR RELIEF

WHEREFORE, Respondents respectfully request that this Court:

(a) dismiss the Complaint with prejudice and in its entirety;


(b) award to defendants' additional relief as the Court deems just and proper.

Dated: New York, New York
December 26, 2007

Yours, etc.

GALVANO & XANTHAKIS, P.C.

By: _____


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